

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

AMERICAN FAMILY MUTUAL,	)	No. ED101609
INSURANCE COMPANY,	)	
	)	
Respondent,	)	Appeal from the Circuit Court
	)	of St. Louis County
vs.	)	
	)	Honorable Barbara W. Wallace
EDWARD DIXON and	)	
KATHY DIXON,	)	
	)	
Appellant.	)	Filed: December 16, 2014

Appellants Edward Dixon and Kathy Dixon (“Homeowners”) appeal from the trial court’s entry of summary judgment in favor of Respondent American Family Mutual Insurance Company (“American Family”). Homeowners contend the trial court erred in granting American Family summary judgment because American Family is attempting to arbitrate coverage issues through the appraisal process.

REVERSED AND REMANDED.

Division III holds: Because the record shows that the issue at dispute in this litigation is whether Homeowners’ claims are covered losses under the policy as opposed to the amount of damages resulting from a covered loss, the appraisal provision contained in the insurance policy is not applicable. The issue of whether the Homeowners’ claims are covered losses under the policy may not be delegated lawfully to an internal resolution procedure provided in the insurance policy, but may be fully litigated by Homeowners in a court of law. We reverse the judgment of the trial court and remand for further proceedings consistent with this opinion.

Opinion by: Kurt S. Odenwald, P.J., Robert G. Dowd, Jr., J. and Gary M. Gaertner, Jr., J. Concur.

Attorney for Appellant: David Knieriem

Attorney for Respondent: Larry Hellwig

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